

Act No. 13
Public Acts of 2018
Approved by the Governor
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STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

Introduced by Reps. Runestad and Lucido

ENROLLED HOUSE BILL No. 4821

AN ACT to amend 1998 PA 386, entitled “An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts,” by amending sections 3203, 3204, and 3414 (MCL 700.3203, 700.3204, and 700.3414), sections 3204 and 3414 as amended by 2000 PA 54.

The People of the State of Michigan enact:

Sec. 3203. (1) For either formal or informal proceedings, subject to subsection (2), persons who are not disqualified have priority for appointment as personal representative in the following order:

(a) The person with priority as determined by a probated will including a person nominated by a power conferred in a will.

(b) The decedent’s surviving spouse if the spouse is a devisee of the decedent.

(c) Other devisees of the decedent.

(d) The decedent’s surviving spouse.

(e) Other heirs of the decedent.

(f) After 42 days after the decedent’s death, the nominee of a creditor if the court finds the nominee suitable.

(g) After 63 days after the decedent’s death, or if the court determines exigent circumstances exist, the state or county public administrator if any of the following apply:

(i) No interested person applied or petitioned for appointment of a personal representative within 63 days or the number of days determined by the court under this subdivision after the decedent’s death.

(ii) The decedent died apparently leaving no known heirs.

(iii) There is no spouse, heir, or beneficiary under a will who is a United States resident and is entitled to a distributive share in the decedent’s estate.

(2) An objection to the appointment of a personal representative may be made only in a formal proceeding. If an objection is made, the priorities prescribed by subsection (1) apply except in either of the following circumstances:

(a) If the estate appears to be more than adequate to meet exemptions and costs of administration but inadequate to discharge anticipated unsecured claims, on petition of creditors, the court may appoint any qualified person.

(b) If a devisee or heir who appears to have a substantial interest in the estate objects to the appointment of a person whose priority is not determined by will, the court may appoint a person who is acceptable to the devisees and

heirs whose interests in the estate appear to be worth in total more than 1/2 of the probable distributable value or, if no person is acceptable to these devisees and heirs, any suitable person.

(3) A person entitled to letters under subsection (1)(b) to (e) may nominate a qualified person to act as personal representative. A person may renounce his or her right to nominate or to an appointment by filing an appropriate writing with the court. If 2 or more persons share a priority, those of them who do not renounce shall concur in nominating another to act for them or in applying for appointment.

Sec. 3204. (1) A conservator of a protected individual's estate or, if there is no conservator, a guardian of a minor or legally incapacitated individual may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the devisees and heirs that the protected individual or ward would have if qualified for appointment.

(2) Except as provided in sections 3308(1)(f) and 3310, a person who does not have priority prescribed in section 3203(1)(a) to (f), including priority resulting from renunciation or nomination determined under this section or section 3203, shall be appointed only in a formal proceeding. The state or county public administrator must be appointed only in a formal proceeding. Before appointing the state or county public administrator or any other person without priority, the court shall determine that persons having priority have been notified of the proceedings and have failed to request appointment or to nominate another person for appointment, and that administration is necessary.

(3) A person is not qualified to serve as a personal representative if the person is either under the age of 18 or is a person whom the court finds unsuitable in formal proceedings.

(4) A personal representative appointed by a court of the decedent's domicile has priority over all other persons except if the decedent's will nominates different persons to be personal representatives in this state and in the state of domicile. The domiciliary personal representative may nominate another person, who then has the same priority as the domiciliary personal representative.

(5) This section and section 3203 govern priority for appointment of a successor personal representative, but do not apply to the selection of a special personal representative.

Sec. 3414. (1) An interested person or a person that has a right or cause of action that cannot be enforced without appointment may file a petition for a formal proceeding regarding the priority or qualification of a prospective or appointed personal representative.

(2) If an issue concerning the decedent's testacy is or may be involved, a formal proceeding for adjudication regarding the priority or qualification of an individual who is seeking appointment as personal representative or who was previously appointed personal representative in informal proceedings is governed by this section and section 3402. In other cases, the petition must include or adopt the statements required by section 3301(1)(a) and must describe the question relating to the personal representative's priority or qualification that is to be resolved.

(3) If a formal proceeding precedes the appointment of a personal representative, the formal proceeding stays an informal appointment proceeding that is pending or that is commenced after the formal proceeding's commencement. If the formal proceeding is commenced after the appointment of a personal representative and after the personal representative receives notice of the commencement, the personal representative shall not exercise a power of administration except as necessary to preserve the estate or unless the court orders otherwise.

(4) After notice to interested persons, including all persons interested in the administration of the estate as successors under the applicable assumption concerning testacy, a previously appointed personal representative, a person having or claiming priority for appointment as personal representative, and any other person described in section 3403(1) or (2), the court shall determine who is entitled to appointment under section 3203, make a proper appointment, and, if appropriate, terminate a prior appointment found to be improper as provided in cases of removal under section 3611.

(5) If the state or county public administrator is seeking appointment as personal representative and the state or county public administrator has knowledge that the decedent's real property has delinquent property taxes on it or is subject to a mortgage foreclosure, all of the following apply:

(a) In addition to any other notice required under this act, the petitioner shall give notice of hearing to the decedent's heirs in the manner prescribed by section 1401. The petitioner shall also post the notice of hearing and the state court administrative office form to challenge the petition on the decedent's real property. A notice required under this subdivision must be in a form approved by the supreme court and must include all of the following information:

(i) A statement describing why the heir is receiving the notice.

(ii) That the heir may object to the petitioner's appointment.

(iii) That the heir may petition the court for a court hearing on any matter, including, but not limited to, any of the following:

(A) A petition for removal of a personal representative for cause under section 3611, at any time during the estate's administration.

(B) A petition for the heir to be appointed personal representative.


(b) The petition must include a statement that details the petitioner's reasonable search for the decedent's heirs, including, but not limited to, an internet search.

(6) A state or county public administrator who intentionally fails to provide the notices required under subsection (5) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 4822 of the 99th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: House Bill No. 4822, referred to in enacting section 2, was filed with the Secretary of State February 6, 2018, and became 2018 PA 14, Eff. May 7, 2018.